

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SENATE BILL 201

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Richard C. Martinez

AN ACT

RELATING TO RECORDING REAL PROPERTY DOCUMENTS; ENACTING THE
UNIFORM REAL PROPERTY ELECTRONIC RECORDING ACT; PROVIDING FOR
THE OPTIONAL RECORDING OF ELECTRONIC REAL PROPERTY DOCUMENTS BY
COUNTY CLERKS AND THE VALIDITY OF REAL PROPERTY DOCUMENTS WITH
ELECTRONIC SIGNATURES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE.--This act may be cited as the
"Uniform Real Property Electronic Recording Act".

Section 2. DEFINITIONS.--As used in the Uniform Real
Property Electronic Recording Act:

A. "document" means information that is:

(1) inscribed on a tangible medium or that is
stored in an electronic or other medium and that is retrievable
in perceivable form; and

.163458.3

underscored material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 (2) eligible to be recorded in the land
2 records maintained by a county clerk;

3 B. "electronic" means relating to technology having
4 electrical, digital, magnetic, wireless, optical,
5 electromagnetic or similar capabilities;

6 C. "electronic document" means a document that is
7 received by a county clerk in an electronic form;

8 D. "electronic signature" means an electronic
9 sound, symbol or process attached to or logically associated
10 with a document and executed or adopted by a person with the
11 intent to sign the document;

12 E. "person" means an individual, corporation,
13 business trust, estate, trust, partnership, limited liability
14 company, association, joint venture, public corporation,
15 government or governmental subdivision, agency or
16 instrumentality or any other legal or commercial entity; and

17 F. "state" means a state of the United States, the
18 District of Columbia, Puerto Rico, the United States Virgin
19 Islands or any territory or insular possession subject to the
20 jurisdiction of the United States.

21 Section 3. VALIDITY OF ELECTRONIC DOCUMENTS.--

22 A. If a law requires, as a condition for recording,
23 that a document be an original, be on paper or another tangible
24 medium or be in writing, the requirement is satisfied by an
25 electronic document satisfying the Uniform Real Property

.163458.3

underscored material = new
[bracketed material] = delete

1 Electronic Recording Act.

2 B. If a law requires, as a condition for recording,
3 that a document be signed, the requirement is satisfied by an
4 electronic signature.

5 C. A requirement that a document or a signature
6 associated with a document be notarized, acknowledged,
7 verified, witnessed or made under oath is satisfied if the
8 electronic signature of the person authorized to perform that
9 act and all other information required to be included is
10 attached to or logically associated with the document or
11 signature. A physical or electronic image of a stamp,
12 impression or seal need not accompany an electronic signature.

13 Section 4. RECORDING OF DOCUMENTS.--

14 A. In this section, "paper document" means a
15 document that is received by the county clerk in a form that is
16 not electronic.

17 B. A county clerk:

18 (1) who implements any of the functions listed
19 in this section shall do so in compliance with standards
20 established by the information technology commission and the
21 state commission of public records, in consultation with the
22 county clerks of New Mexico, pursuant to Section 5 of the
23 Uniform Real Property Electronic Recording Act;

24 (2) may receive, index, store, archive and
25 transmit electronic documents;

.163458.3

underscored material = new
[bracketed material] = delete

1 (3) may provide for access to and for search
2 and retrieval of documents and information by electronic means;

3 (4) who accepts electronic documents for
4 recording shall continue to accept paper documents as
5 authorized by state law and shall place entries for both types
6 of documents in the same index;

7 (5) may convert paper documents accepted for
8 recording into electronic form;

9 (6) may convert into electronic form
10 information recorded before the county clerk began to record
11 electronic documents;

12 (7) may accept electronically any fee that the
13 county clerk is authorized to collect; and

14 (8) may agree with other officials of a state,
15 of a political subdivision of a state or of the United States
16 on procedures or processes to facilitate the electronic
17 satisfaction of prior approvals and conditions precedent to
18 recording and the electronic payment of fees.

19 Section 5. ADMINISTRATION AND STANDARDS.--

20 A. The information technology commission and the
21 state commission of public records, in consultation with the
22 county clerks of New Mexico, shall adopt standards to implement
23 the Uniform Real Property Electronic Recording Act.

24 B. To keep the standards and practices of county
25 clerks in this state in harmony with the standards and

.163458.3

underscoring material = new
[bracketed material] = delete

1 practices of recording offices in other jurisdictions that
2 enact substantially the Uniform Real Property Electronic
3 Recording Act and to keep the technology used by county clerks
4 in this state compatible with technology used by recording
5 offices in other jurisdictions that enact substantially the
6 Uniform Real Property Electronic Recording Act, the information
7 technology commission and the state commission of public
8 records, in consultation with the county clerks of New Mexico,
9 so far as is consistent with the purposes, policies and
10 provisions of the Uniform Real Property Electronic Recording
11 Act, in adopting, amending and repealing standards shall
12 consider:

13 (1) standards and practices of other
14 jurisdictions;

15 (2) the most recent standards promulgated by
16 national standard-setting bodies, such as the property records
17 industry association;

18 (3) the views of interested persons and
19 governmental officials and entities;

20 (4) the needs of counties of varying size,
21 population and resources; and

22 (5) standards requiring adequate information
23 security protection to ensure that electronic documents are
24 accurate, authentic, adequately preserved and resistant to
25 tampering.

.163458.3

